
HOUSE BILL 3319

State of Washington

60th Legislature

2008 Regular Session

By Representative Kirby

1 AN ACT Relating to residential mortgage loans; and adding a new
2 chapter to Title 19 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Adjustable rate mortgage" or "ARM" means a payment option ARM
7 or a hybrid ARM (commonly known as a 2/28 or 3/27 loan).

8 (2) "Borrower" means any person who consults with or retains a
9 person subject to this chapter in an effort to seek information about
10 obtaining a residential mortgage loan, regardless of whether that
11 person actually obtains such a loan.

12 (3) "Department" means the department of financial institutions.

13 (4) "Director" means the director of the department of financial
14 institutions.

15 (5) "Financial institution" means commercial banks and alien banks
16 subject to regulation under Title 30 RCW, savings banks subject to
17 regulation under Title 32 RCW, savings associations subject to
18 regulation under Title 33 RCW, credit unions subject to regulation

1 under chapter 31.12 RCW, consumer loan companies subject to regulation
2 under chapter 31.04 RCW, and mortgage brokers and lenders subject to
3 regulation under chapter 19.146 RCW.

4 (6) "Residential mortgage loan" means an extension of credit
5 secured by residential real property located in this state upon which
6 is constructed or intended to be constructed, a single-family dwelling
7 or multiple-family dwelling of four or less units. It does not include
8 a reverse mortgage or a borrower credit transaction that is secured by
9 rental property. It does not include a bridge loan. It does not
10 include loans to individuals making or acquiring a residential mortgage
11 loan solely with his or her own funds for his or her own investment.
12 For purposes of this subsection, a "bridge loan" is any temporary loan,
13 having a maturity of one year or less, for the purpose of acquisition
14 or construction of a dwelling intended to become the borrower's
15 principal dwelling.

16 (7) "The interagency guidance on nontraditional mortgage product
17 risks" means the guidance document issued in September 2006 by the
18 office of the comptroller of the currency, the board of governors of
19 the federal reserve system, the federal deposit insurance corporation,
20 the office of thrift supervision, and the national credit union
21 administration, and the guidance on nontraditional mortgage product
22 risks released in November 2006 by the conference of state bank
23 supervisors and the American association of residential mortgage
24 regulators.

25 (8) "The statement on subprime mortgage lending" means the guidance
26 document issued in June 2007 by the office of the comptroller of the
27 currency, the board of governors of the federal reserve system, the
28 federal deposit insurance corporation, the office of thrift
29 supervision, and the national credit union administration, and the
30 statement on subprime mortgage lending released in July 2007 by the
31 conference of state bank supervisors, the American association of
32 residential mortgage regulators, and the national association of
33 consumer credit administrators.

34 NEW SECTION. **Sec. 2.** A mortgage broker, designated broker, loan
35 originator, and other persons working with or for mortgage brokers must
36 act in the borrower's best interest and in the utmost good faith toward
37 the borrower, and shall not compromise a borrower's right or interest

1 in favor of another's right or interest, including a right or interest
2 of the mortgage broker. A mortgage broker, designated broker, loan
3 originator, and other persons working with or for mortgage brokers
4 shall not accept, provide, or charge any undisclosed compensation or
5 realize any undisclosed remuneration that inures to the benefit of the
6 mortgage broker on an expenditure made for the borrower.

7 NEW SECTION. **Sec. 3.** (1) Financial institutions subject to this
8 chapter must use sound underwriting principles, including:

- 9 (a) Determining that a borrower has the ability to repay the loan;
10 (b) Verifying a borrower's income; and
11 (c) Factoring the escrow for property taxes and property insurance
12 into the loan.

13 (2) Financial institutions subject to this chapter must adopt and
14 adhere to the interagency guidance on nontraditional mortgage product
15 risks and the statement on subprime mortgage lending.

16 (3) The department shall adopt rules to implement this chapter and
17 ensure that financial institutions subject to this chapter are using
18 sound underwriting principles.

19 NEW SECTION. **Sec. 4.** A financial institution may not make or
20 facilitate the origination of a residential mortgage loan that includes
21 a prepayment penalty or fee that extends beyond:

- 22 (1) Sixty days prior to the initial reset period of an adjustable
23 rate mortgage; or
24 (2) Five years after the date of the closing of the loan.

25 NEW SECTION. **Sec. 5.** (1) If the borrower has a loan that will be
26 refinanced, the financial institution must provide the borrower with a
27 written side-by-side comparison chart prior to making the loan that
28 shows the following provisions of the proposed and the existing loans:

- 29 (a) The monthly payments;
30 (b) Interest rates;
31 (c) The length of the loan; and
32 (d) Whether the loan is a fixed-rate mortgage or adjustable rate
33 mortgage.

34 (2) The financial institution is required to review the chart

1 required in subsection (1) of this section with the borrower prior to
2 making the loan.

3 (3) This section only applies to a financial institution that is
4 subject to this chapter.

5 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act are
6 codified in chapter 19.--- RCW (the new chapter created in House Bill
7 No. 2770 or Senate Bill No. 6728.) If neither bill is enacted,
8 sections 1 through 5 of this act constitute a new chapter in Title 19
9 RCW.

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